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Draft Chesapeake Bay Total Maximum Daily Load

Comment On: EPA-R03-OW-2010-0736-0001
Clean Water Act Section 303(d): Notice for the Public Review of the Draft Total Maximum Daily Load (TMDL) for the Chesapeake Bay

Document: EPA-R03-OW-2010-0736-0245
Comment submitted by Laurie Coulter, (VACPA) Legislative Chair, Virginia Crop Production Association, Inc. (VACPA)

Submitter Information

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General Comment

VACPA, Virginia Crop Production Association, is committed to environmental stewardship. VACPA membership consists of all major retailers, distributors, and basic manufacturers that supply and service the farming community in Virginia and the surrounding states. Clean water and good soil are fundamental to our businesses. VACPA has been doing our part and will continue to do so in order to help create a healthy Chesapeake Bay and local waters. Specifically agriculture has met 52% of reduction goals for Nitrogen and 50% for Phosphorus and Sediment—all through a voluntary, incentive based program in Virginia. This doesn't even count the actions farmers have taken on their own without funding.

VACPA members have been willing partners in making environmental progress—and have proven it with our actions, time and time again. Virginia has put over \$80 million into Agricultural Best Management Practice (Ag BMP) Cost-Share program since 2006. Farmers have matched this spending with \$0.60 of every dollar. Even without cost-share funding, agriculture is taking action. Virginia farmers fence cattle from streams, practice conservation tillage, use proper nutrient management practices, and install buffers along waterways without federal or state funds and without being "counted" by EPA.

The Chesapeake Bay Model, the basis for nutrient and sediment reductions required by EPA, has been shown to have extensive flaws in the data it utilizes. EPA even acknowledges this fact. EPA should not move ahead with costly mandates based upon flawed modeling and data. In 2010, Virginia Cooperative Extension conducted a field observation study in the Coastal Plain. They found that 90% of crop acres were planted in no-till. Only 15% of the acres are enrolled in DCR's no-till program. The model is currently "throwing out" actual, ground-truthed data from Virginia because it does not meet the "modeled" land use data. This is unfair when the practices are meeting all requirements set forth by EPA. Federal actions must be based on accurate information. No additional regulations or penalties should be put on states or industries until the science and data have been proven.

The Bay TMDL, which requires Virginia to develop a Watershed Implementation Plan (WIP), will have

a high cost for compliance for all sectors. While VACPA agrees that there is a benefit of clean waters within the Bay and local watersheds, the economic costs for compliance must be balanced, and water quality programs cannot be developed in a vacuum without considering economic impacts to the economy. Before moving forward with a finalized Bay TMDL, EPA must conduct a non-biased economic impact analysis. Experts from land-grant universities from across the watershed could be called upon to evaluate the actual costs of meeting water quality standards for businesses, citizens, localities, states, and the federal government.

Agriculture has the benefit of estimating some expenses based on existing data on cost of implementing AgBMPs through current state and federal programs. Virginia estimates that just one practice (cattle fencing) could cost more than \$800 million to implement. Fencing cattle from streams, putting in crossings, providing alternative watering, etc. costs on average \$30,000 for a Virginia cattle farmer. Virginia's Natural Resources Commitment Fund says Ag BMP cost-share funds will need to be \$63.2 million annually from 2025 in order to get 60% NPS reduction goals from agriculture. This is only cost-share funding from the state doesn't account for federal government's traditional share of funding or the money that comes from farmers. Current funding estimates are just based upon the cost of installing the practice, they do not account for costs like loss of productive land, replacing practices when weather damages occur, fluctuations in markets, etc. Economic conditions (lack of profits, increased input costs, additional credit not an option) mean that extra money to meet regulations is non-existent. Due to long-term devastating economic conditions for agriculture (like other sectors), federal backstops alone (mandatory permitting of small dairies, requiring some ag processing plants to do more) will be enough to drive some farmers out of business. Cost share funding will be critical to meeting demands of EPA. Agriculture has seen depressed profits, just as the State and local governments have been facing historic deficits. Individual businesses, farmers, and the State cannot meet this unfunded mandate from EPA without significant federal funding.

Virginia's Watershed Implementation Plan (WIP) reflects some practices for agriculture that VACPA strongly believes, given proper implementation and funding, will result in significant water quality improvements. Agricultural Resource Management or Conservation Plans to meet the individual conservation needs of each farm will result in progress without mandating a "one-size-fits-all approach". We question the "reasonable assurance" offered by EPA's backstops, as current regulatory authority and details on new requirements are both unclear. Instead of forcing states to regulate their way out of "backstops," we urge EPA to allow Virginia to implement its own plans for achieving clean water goals—without costly, burdensome regulations.

Please submit these comments from VACPA into the EPA comments concerning the Draft Bay TMDL.

Laurie Coulter
VACPA Legislative Chair